IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

J U D G M E N T

APPELLANT (NON-APPLICANT):

State of Rajasthan through
Executive Engineer, Lift Division,
Indira Gandhi Nahar Pariyojna,
Loonkaransar.

VERSUS

RESPONDENTS (APPLICANTS):

M/s Rajasthan Construction Company & anr.

S.B.Civil First Appeal No.60/1991
against the order dt.3.11.1990 passed by
the District Judge, Bikaner,
in Civil Misc. Case No.64/88.

Date of Judgment: May 01, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.V.R.Mehta, Additional Government Advocate.
None present, for the respondent.

BY THE COURT:

This is an appeal against the order and decree dated 3.11.1990 passed by the learned District Judge, Bikaner,

whereby while allowing the application of respondent-applicant under Sections 14 and 17 of the Arbitration Act, 1940, made the award, passed by Shri M.K.Gambhir, Superintending Engineer, who was appointed as a Sole Arbitrator in the matter of supply of 30 lacs pucca tiles and 5 lacs pucca bricks at kiln R.D.14 (L) of Bikaner by the Indira Gandhi Nahar Department Order No.F.1 (19) IGND/85 dated 6/7.5.86, as rule of the Court, wherein it was ordered that appellant-State shall pay Rs.25,734/- to the respondent applicant with interest at the rate of 6% per annum from the date of decree with costs.

The main ground which has been taken in this appeal is that the objections raised against the award of the Sole Arbitrator passed on 6th May, 1988 were not properly considered by the learned District Judge. They were that the Arbitrator has not assigned any reasons in his award, the award was filed after the stipulated time given to him under the agreement and the objection of the respondent applicant about filing of award late by 30 days, was not properly appreciated by the learned District Judge, while interpreting Article 119 of the Schedule attached with the Indian Limitation Act, 1963.

I have gone through the order passed by the learned District Judge and carefully considered the submissions made by

the learned Additional Government Advocate.

Under Article 119 of the Schedule attached with the Indian Limitation Act, 1963, period for filing an application for setting aside an award is 30 days from the date of service of notice of filing the award. The notice of filing of award was served on the appellant State on 27.6.88 as per the notice issued and attached with the file of the learned District Judge and the objections have been filed by the State on 26.8.88, therefore, apparently, the application for objection with regard to setting aside of award has been made beyond the period of limitation of 30 days and there seems to be no illegality in the finding arrived-at by the learned District Judge with regard to limitation. Even if other arguments of the learned Additional Government Advocate are taken into consideration with regard to not submitting the award within the time prescribed and not assigning the reasons, there is no apparent illegality in the order of the learned District Judge because no time limit has been prescribed in the order issued by the Deputy Secretary to the Government, IGND, Jaipur dated 6/7.5.86 that Shri M.K.Gambhir, Superintending Engineer, (P&M), Office of the Chief Engineer, I.G.N.P., Bikaner, appointed as Sole Arbitrator, will submit the award within a stipulated time. This order is at page 39 of the file of the trial court. Clause 19A of the Arbitration Act only deals with the appointment of the

Arbitrator for referring the dispute to the Arbitrator. As regards non-assigning of reasons in the award, the Sole Arbitrator has passed the award after considering the entire oral and documentary evidence led during the arbitration proceedings and on each day of the proceedings, the reasons have been assigned. The award can be set aside only on account of misconduct on the part of the Sole Arbitrator, but no such ground has been raised before the learned District Judge for setting aside the award on account of there being any misconduct on the part of the Sole Arbitrator. In view of this, there seems no reason to interfere with the order and decree passed by the learned District Judge, Bikaner.

Consequently, the order and decree dated 3.11.1990 passed by the learned District Judge, Bikaner is hereby maintained and the appeal is dismissed. Since nobody has appeared on behalf of the respondent, there will be no order as to cost.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS